

REMARKS

This paper is submitted in response to the pending Office Action mailed on July 27, 2005. Because this Response is submitted with a Petition for a three (3) month Extension of Time, a check for \$1020.00 set forth under 37 C.F.R. §1.17(a)(3) and a certificate of mailing in compliance with 37 C.F.R. §1.8 on or before the period for reply set to expire on **January 27, 2006**, this Response is timely filed.

I. STATUS OF THE CLAIMS

Prior to this response, claims 1 to 71 were pending. By this response, claims 1 to 71 have been amended and new claims 72 to 82 have been added to clearly recite the subject matter for which protection is sought. These claim amendments seek to clarify subject matter that is inherently disclosed in the specification and recited in the claims, and do not add any new subject matter. Thus, claims 1 to 82 are pending and at issue in this application.

A check in the amount of \$1150.00 for the claim fees set forth under 37 C.F.R. §§1.16(h) and 1.16(i) is enclosed. The claim fees include eleven (11) new claims and three (3) claims amended into independent form.

The total fees believed due in connection with this Response is \$2170.00, however, please charge **Deposit Account No. 02-1818** for any fees deemed owed.

II. CLAIMS REJECTIONS

The Office Action rejects: claims 1, 2, 5 to 7, 10 to 15, 18 to 20, 23 to 26, 29 to 32 and 35 as obvious over U.S. Patent No. 5,727,950 to Cook et al. ("*Cook*") in view of U.S. Patent No. 5,826,269 to Hussey ("*Hussey*"); and claims 36 to 71 as obvious over *Cook* in view of U.S. Patent No. 5,682,469 to Linnet ("*Linnet*").

Applicants respectfully traverse the rejections of claims 1, 2, 5 to 7, 10 to 15, 18 to 20, 23 to 26, 29 to 32 and 35 as obvious¹ over *Cook* in view of *Hussey* and the

¹ To establish a *prima facie* case of obviousness, three basic criteria must be met.:

- (a) First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.
- (b) Second, there must be a reasonable expectation of success.
- (c) Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP §2143 - §2143.03 for decisions pertinent to each of these criteria.

rejections of claims 36 to 71 as obvious over *Cook* in view of *Linnet*. In particular, the new independent claim and the amended independent claims generally recite an apparatus or method for sending an E-mail to which the agent parameters that manage the onscreen behavior of a virtual agent are annexed. Moreover, once the E-mail containing the agent parameters is sent, the agent is set to absent for a pre-set time period or until a reply is receive. It may be instrumental to note that the agent parameters of the present application include, for example, both:

inner information and outer information [...]. The inner information is made up of, for example, mail count, age, sex, intelligence, vigor, friendship (with the keeper), hunger, happiness, cleanliness, bio-rhythm (indefinite element), noise (indefinite element), friendship (with the counterpart), positiveness/negativeness (+/-), cheerfulness/gloominess (+/-), gentleness/coldness (+/-), concentration/diffuseness (+/-), chich/awkward, fashionability, attractiveness or taste for gourmet. The outer parameters is made up of, for example, position, comfortableness of a room, user action-number of times of hitting, guest action-called, guest action-shown friendship, guest action-shown hostility, guest action-giving items, and guest action-requesting items. *See specification* at page 13, lines 20 to 30.

Thus, the parameters which control the look, feel and behavior of the agent are attached or annexed to an E-mail and sent to a recipient.

None of the cited references, either alone or in combination disclose an apparatus or method for sending an E-mail to which the agent parameters that manage the onscreen behavior of a virtual agent are annexed, much less one in which once the E-mail containing the agent parameters is sent, the agent is set to absent for a pre-set time period or until a reply is receive. Thus, none of the cited reference, either alone or in combination, provides a proper basis for establishing a *prima facie* case of obviousness.

In particular, contrary to the assertions set forth in the pending Office Action, *Cook* does not disclose that the behavior of the agent is managed by agent parameters or that the agent parameters or agent interface can be implemented using E-mail. Furthermore, *Cook* is completely silent regarding even the possibility of sending agent parameter's, or any other agent information, via E-mail. *Cook* simply discloses a system for interactive instruction in which:

[a]gent behavior processing 612 constructs an on-screen agent display based on the actions determined in agent action processing. In a preferred embodiment, this processing is based on behavior tables 613 [such that u]tterances, text or voice, and affects are selected from tables based on the determined final actions and refined with parameters included with the actions. The utterances and actions are sent to the selected agent persona object, which creates the agent display of the selected personae using the utterances and effect selected. *See Cook* at col. 35, lines 58 to 67.

In other words, *Cook* simply discloses controlling the graphical representation of an agent. *Cook* does not disclose or even suggest controlling inner and outer information that make up the agent parameters and influence the agent behavior. Thus, it is clear that the “behavior” of *Cook* is simply the graphical representation of an agent, and is not the behavior recited by the claims at issue.

Moreover, while *Cook* discloses that the communications between users may occur via electronic mail to transmit event messages, *Cook* does not disclose or suggest that this information is, or even could be, agent parameters. In fact, *Cook* explicitly states that the “e-mail or message exchange [links] student groups for joint work”. *See Cook* at col. 46, lines 1 to 2. Thus, the E-mail communication of *Cook* is simply chatter between students and does not, at any level, include system information or agent parameters for controlling the behavior of an agent, as recited by the claims at issue. Thus, the E-mail communication of *Cook* is entirely different in structure and nature to the E-mail claimed and recite by the present application as acknowledged on page 3 of the Office Action.

Neither *Hussey* nor *Linnet* provides the teaching, disclosure or even suggestion of the elements missing from *Cook*. *Hussey* simply discloses communicating a SQL command string to a server via an E-mail protocol. *Hussey* does not disclose agent parameters that include inner and outer information, much less parameters that control the behavior related to the inner and outer information. Furthermore, the SQL command string is an entirely different, and unrelated data structure, than the claimed agent parameters. For example, a SQL command string is an active instruction or command that the requests or controls the processing of data on the server. By way of contrast, the agent parameters are passive variables that simply describe the status of an agent. Thus, *Hussey* is simply concerned with

controlling information requests to a SQL server and *Hussey* does not disclose agent parameters of any kind, much less communicating those parameters via E-mail.

Linnet simply discloses animated characters. *Linnet* does not disclose agent parameters that include inner and outer information, much less parameters that control the behavior related to the inner and outer information. Furthermore, *Linnet* does not suggest, or even disclose communicating these non-existent agent parameters via E-mail. The rationale that it would be "useful" is simply another way of conveying hindsight reconstruction and is therefore not a proper basis for showing a suggestion or motivation to combine.

Because *Cook*, *Hussey* and *Linnet* do not disclose, or even suggest, an apparatus or method for sending an E-mail to which the agent parameters that manage the onscreen behavior of a virtual agent are annexed, much less one in which once the E-mail containing the agent parameters is sent, the agent is set to absent for a pre-set time period or until a reply is received, these references do not provide the proper basis for establishing a *prima facie* case of obviousness. For these reasons, Applicants submit that claims 1 to 82 are over any combination of these references.

III. CONCLUSION

For the foregoing reasons, Applicants respectfully request withdrawal of the pending rejections and submit that the above-identified patent application is now in condition for allowance and earnestly solicits reconsideration of same. The Examiner is respectfully requested to telephone the undersigned if he can assist in any way in expediting prosecution of this application.

Respectfully submitted,

BELL, BOYD & LLOYD LLC

BY: 

Matthew T. Ridsdale

Reg. No. 56,832

Cust. No. 29175

Direct: (312) 807-4440

mridsdale@bellboyd.com

Dated: January 26, 2006